IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R.Nos. 59 and 60 of 1992
Date of decision: 9.11.2006

The Commissioner of Income-tax Jalandhar

Applicant
through
Dr. N.L.Sharda, Advocate

v.

Dr. Ravi Paul

Respondent
through
Nemo

CORAM:

Hon'ble Mr.Justice Ajay Kumar Mittal
Hon'ble Mr.Justice Rajesh Bindal

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Rajesh Bindal, J.

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, `the Tribunal'), arising out of its order dated 21.9.1990 in I.T.A. Nos. 1405(ASR)/1989 and 1406(ASR)/1989, in respect of assessment years 1984-85 and 1985-86:

> "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in cancelling the penalties imposed under Section 271(1)(c)?"

Briefly, the facts, as noticed in the statement of the case, are that the assessee, who derived income from medical profession, filed return for the assessment year in question, which was processed under Section 143(1) of the Income-tax Act, 1961 (for short, `the Act'). Later on, in assessment proceedings, the Assessing Officer found discrepancies in the professional receipts and low household withdrawls. On the basis thereof, additions were made in the income. In penalty proceedings under Section 271(1)(c) of the Act, penalty of Rs. 15,973/- and Rs. 16,661/- was levied for the assessment years 1984-85 and 1985-86

respectively. In appeal, the Commissioner of Income-tax (Appeals) directed that sums of Rs. 17,000/- and Rs. 8,000/- respectively for the assessment years in question, received by the assessee from his wife, be adjusted towards household expenses and penalty be re-worked out accordingly. In further appeal before the Tribunal by both the parties, entire penalty was ordered to be deleted. The appeal of the Revenue was dismissed, whereas the appeal of the assessee was accepted. The Tribunal held that there was no material in the assessment order to warrant the inference that there was concealment on the part of the assessee. The only inference from the low household expenses was not sufficient to record a finding against the assessee. No particular item of concealment was attributed to the assessee in the order of assessment.

Learned counsel for the Revenue has not been able to controvert the findings recorded by the Tribunal on the basis of any material on record to convince this Court to take a view contrary to what has been taken by the Tribunal on appreciation of the facts on record. Accordingly, we do not find that any illegality has been committed by the Tribunal in cancelling the penalty imposed under Section 271(1)(c) of the Act. The question is thus, answered against the Revenue and in favour of the assessee.

The reference is disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

(Ajay Kumar Mittal)
Judge

9.11.2006
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